

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

2013 MAY 24 PM 1: 26

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FIRST GENERAL COUNSEL'S REPORT

MUR: 6647

DATE COMPLAINT FILED: September 17, 2012

DATE OF NOTIFICATION: September 19, 2012

RESPONSE RECEIVED: November 6, 2012

DATE OF ACTIVATION: February 27, 2012

ELECTION CYCLE: 2012

EXPIRATION OF SOL: Earliest: February 16, 2017

Latest: April 15, 2017

COMPLAINANT:

G. Charles Wilkinson, Sr.

RESPONDENTS:

Charles A. Wilson¹

Friends of Charlie Wilson and Angela Hatfield
in her official capacity as treasurer

RELEVANT STATUTES
AND REGULATIONS:

2 U.S.C. § 437(g)

2 U.S.C. § 434(a)(6)

2 U.S.C. § 434(b)

2 U.S.C. § 441a(a)(1)-(2)

2 U.S.C. § 441a(f)

11 C.F.R. § 104.3

11 C.F.R. § 104.5(f)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter involves allegations that Charles A. Wilson and his authorized committee, Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer (the "Committee"), violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Sheet Metal Workers'

¹ In 2006, Wilson won a write-in campaign for the U.S. House of Representatives in Ohio's Sixth Congressional district, served two terms, and lost his bid for re-election in 2010. Wilson sought to reclaim the seat in 2012, but lost to the incumbent. Wilson suffered a stroke in February 2013 and passed away on April 14, 2013.

1 International Association PAC ("Sheet Metal Workers' PAC"). The Complaint also alleges that
2 the Committee violated 2 U.S.C. §§ 434(a) and (b) by failing to properly report contributions it
3 received during the 2012 election cycle, including failing to timely file required 48-hour notices
4 and failing to properly report the source of a loan that the Committee received from the candidate
5 in its 2012 April Quarterly Report.

6 The available information indicates that the Committee did not accept an excessive
7 contribution from Sheet Metal Workers' PAC, and timely filed the 48-hour notice regarding that
8 contribution. The Committee, however, failed to timely file 48-hour notices for contributions
9 from two individuals and failed to indicate on its Schedule C of the 2012 April Quarterly Report
10 that the source of funds for a 2006 loan the candidate made to the Committee was "personal
11 funds."

12 We recommend that the Commission find no reason to believe that Charles A. Wilson and
13 Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C.
14 § 441a(f) by accepting excessive contributions. Additionally, we recommend that the
15 Commission exercise its prosecutorial discretion and dismiss allegations that Friends of Charlie
16 Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. §§ 434(a)(6) and
17 (b)(2)(G) by failing to properly report contributions received by the campaign in 2012, and the
18 source of a personal loan the candidate made to the campaign in 2006.

19 II. FACTS

20 Charles A. Wilson was the Democratic candidate for Ohio's Sixth Congressional District
21 in the March 6, 2012 Democratic primary election and the general election held on November 6,
22 2012. The Committee has been registered with the Commission as Wilson's principal campaign
23 committee since 2005.

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1 On February 16, 2012, the Committee received three contributions for the primary
2 election: a \$5,000 contribution from the Sheet Metal Workers' PAC, and two separate \$2,000
3 contributions from Richard Sokolov and Susan Sokolov, respectively. Resp. at 2, Exs. B and C
4 (Nov. 6, 2012). The Committee filed a 48-hour notice disclosing the contribution from the Sheet
5 Metal Workers' PAC on February 18, 2012. *Id.* at 2, Ex. B. The Committee disclosed the
6 Sokolovs' contributions on February 24, 2012, when it filed an amended 48-hour notice that
7 included the previously reported contribution from the Sheet Metal Workers' PAC, as well as the
8 contributions from Richard and Susan Sokolov.² *Id.* at 2, Ex. C. This 48-hour notice did not
9 indicate that it was an amendment to a previously filed notice.³ The Committee's only
10 explanation for the late disclosure of the Sokolovs' contributions is that the contributions were
11 "newly-discovered." *Id.* at 2.

12 On April 15, 2012, the Committee filed its 2012 April Quarterly Report. The Schedule C
13 attached to that report includes a 2006 loan from the candidate to the Committee but fails to
14 identify the source of the funds used to make the loan. This loan was originally made by Wilson
15 to the Committee on April 18, 2006 in the amount of \$250,000 for his 2006 primary election
16 campaign.⁴ The Committee's 2006 July Quarterly Report, Schedule C (the first filed report
17 following the loan) states that the loan was made from "Personal funds." Resp., Ex. A. Each of
18 the Committee's subsequent disclosure reports also included the "personal funds" notation on the

² On March 10, 2012, the Sheet Metal Workers' PAC made a \$5,000 contribution to the Committee's general election campaign, which was properly reported along with the February 16, 2012 primary election contribution in the Committee's 2012 April Quarterly Report. See Resp. at 2 n.1 and Ex. D.

³ The form for reporting 48-hour notices includes boxes for the committee to check whether the notice is a new filing or an amendment to a prior filing and requests the date of the earlier filing where appropriate. See Resp., Exs. B and C.

⁴ The Committee made repayments to the candidate in 2006-07 totaling \$58,350. Since then, \$191,650 of the original loan has remained outstanding. Resp., Ex. E.

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1 respective Schedule Cs until the Committee's 2012 April Quarterly Report, which did not
2 disclose the source of the funds used to make the loan.

3 On October 3, 2012, the Reports Analysis Division ("RAD") issued the Committee a
4 Request for Additional Information ("RFAI") regarding the Committee's 48-hour notices for the
5 contribution from the Sheet Metal Workers' PAC and the source of the funds for Wilson's loan to
6 the Committee. The RFAI noted that it appeared that the Committee filed duplicate 48-hour
7 notices on February 18 and 24, 2012, regarding the \$5,000 contribution it received from the Sheet
8 Metal Workers' PAC because the contribution was disclosed only once on the Committee's 2012
9 April Quarterly Report, Schedule A. The RFAI also indicated that the Committee needed to
10 clarify whether Wilson used personal funds or borrowed money as the source of the 2006 loan he
11 made to the Committee, which was disclosed on its 2012 April Quarterly Report, Schedule C.

12 In response to the RFAI, on October 5, 2012, the Committee filed an Amended 2012 April
13 Quarterly Report to clarify that the 2006 loan source was the candidate's personal funds.⁵ Resp.,
14 Ex. E. The Committee also filed a Form 99 explaining that it had only received one \$5,000
15 contribution from Sheet Metal Workers' PAC on February 16, and acknowledging that it had
16 included the \$5,000 contribution on its February 24 48-hour notice without identifying that the
17 disclosure was an amendment to the earlier filing. RAD deemed the Committee's submissions to
18 be "adequate responses" to the RFAI. The Committee states in its Response to the Complaint that
19 it has consulted with its external campaign finance reporting vendor to ensure that contributions
20 and loans are properly tracked and reported in the future. Resp. at 2.

⁵ The original 2012 April Quarterly Report, Schedule C lists the loan source as "Charles A. Wilson." The Amended 2012 April Quarterly Report, Schedule C lists the loan source as "Charles A. Wilson PERS FUNDS."

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III. ANALYSIS

A. Excessive Contributions

The Act limits the amount that an individual or a political committee may contribute to a candidate's authorized political committee with respect to an election for federal office. 2 U.S.C. § 441a(a)(1). In 2012, an individual was permitted to make contributions up to \$2,500 per election to a candidate's authorized committee, and a multicandidate committee was permitted to contribute up to \$5,000 per election. 2 U.S.C. § 441a(a)(1)-(2). A candidate and his authorized committee are prohibited from accepting contributions that exceed the Act's contribution limits. *See* 2 U.S.C. § 441a(f).

The Complaint alleges that the Committee accepted an excessive contribution from the Sheet Metal Workers' PAC because it reported two \$5,000 contributions from the PAC, each designated for the primary election. Compl. at 3 (Sept. 17, 2012). The record indicates, however, that the Committee did not accept an excessive contribution from Sheet Metal Workers' PAC. Rather, the Committee filed duplicate 48-hour notices regarding the Sheet Metal Workers' PAC's single \$5,000 contribution — first reporting the contribution on the February 18, 2012 48-hour notice and again on its February 24, 2012 48-hour notice along with the Sokolovs' contributions. The Sheet Metal Workers' PAC's \$5,000 contribution did not exceed the limit set forth in 2 U.S.C. § 441a(a)(1) and therefore did not violate the Act. The Committee properly reported the single \$5,000 contribution on its 2012 April Quarterly Report, Schedule A. *See* 11 C.F.R. § 104.3(a)(3)(iv).

We recommend that the Commission find no reason to believe that Charles A. Wilson and Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions.

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B. Reporting

1. 48-hour Notices

A candidate's principal campaign committee is required to notify the Commission of all contributions of \$1,000 or more received by any authorized committee of the candidate less than 20 days, but more than 48 hours before any election in which the candidate is running. 2 U.S.C. § 434(a)(6), 11 C.F.R. § 104.5(f).

The Committee failed to timely file 48-hour notices for the Sokolovs' contributions — disclosing the contributions on February 24, 2012, more than eight days after they were received.⁶ The Committee made an additional error by including the previously disclosed \$5,000 contribution from the Sheet Metal Workers' PAC on the February 24 notice, without indicating that it was an amendment to the February 16 filing. This duplicate disclosure created confusion as to whether the February 24 filing referenced a new or previously disclosed contribution by the Sheet Metal Workers' PAC.

2. Loans

A candidate may make a loan to his authorized campaign committee, but the Committee must disclose the source of those funds. 2 U.S.C. § 434(b)(2)(G); 11 C.F.R. § 104.3(a)(3)(vii)(B), (4)(iv). The Committee failed to properly itemize the source of the candidate's 2006 loan on its 2012 April Quarterly Report. When a candidate makes a personal loan to his authorized committee, the Act and Commission regulations require that the Committee disclose the source of those funds on the Schedule C of each report filed while the loan remains outstanding. *See id.* While the Committee had previously disclosed that the source of the loan was personal funds on

⁶ The Sokolov 48-hour notices were received by the Commission on February 24, 2012, ten days before the primary election on March 6, 2012. Although the Committee filed the 48-notices for the two Sokolov contributions six days after the notices were due, the violations were not referred by RAD for further action.

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1 the first report filed at the inception of the loan and every report thereafter, the Committee failed
2 to disclose that the source of the loan was personal funds on the Schedule C of its 2012 April
3 Quarterly Report.

4 3. Conclusion

5 As a result of these reporting errors, the Committee violated 2 U.S.C. §§ 434(a)(6) and
6 (b)(2)(G). We recommend, however, that the Commission exercise prosecutorial discretion and
7 dismiss these violations. Respondents cooperated with the Commission and acted appropriately
8 in addressing these violations within a few days of being notified by RAD. Two days after the
9 RFAI date, the Committee filed an amended 2012 April Quarterly Report and filed a Form 99
10 explaining its error in filing the amended 48-hour notice — responses that were deemed
11 “adequate” by RAD. Additionally, the candidate’s loan to the Committee was properly disclosed
12 when it was made in 2006, and thus it has been a matter of public record since the 2006 July
13 Quarterly Report. Although the Sokolov 48-hour notices were six days late, the notices were still
14 received more than nine days before the primary election. It is also noteworthy that, according to
15 RAD, the Committee had a good compliance record during the 2012 election cycle. Finally, the
16 candidate has died since this matter was activated, and the Committee is now non-operational.

17 Based on these circumstances, we recommend that the Commission exercise its
18 prosecutorial discretion and dismiss the allegations that Friends of Charlie Wilson and Angela
19 Hatfield in her capacity as treasurer violated 2 U.S.C. § 434(a)(6) by failing to properly report
20 campaign contributions it received in 2012, and violated 2 U.S.C. § 434(b)(2)(G) by failing to

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disclose the source of a loan it received from the candidate on its 2012 April Quarterly Report.

See Heckler v. Chaney, 470 U.S. 821 (1985).⁷

IV. RECOMMENDATIONS

- (1) Find no reason to believe that that Charles A. Wilson and Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions;
- (2) Dismiss allegations that Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 434(a)(6) by failing to properly report campaign contributions it received in 2012;
- (3) Dismiss allegations that Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 434(b)(2)(G) by failing to disclose the source of a loan it received from the candidate on its 2012 April Quarterly Report;
- (4) Approve the attached Factual and Legal Analysis;
- (5) Approve the appropriate letters; and
- (6) Close the file.

Anthony Herman
General Counsel

Date


5-23-13

BY:

Kathleen Guith
Deputy Associate General Counsel
for Enforcement

Mark Shonkwiler
Assistant General Counsel

⁷ See also MUR 6130 (Carter) (EPS dismissal of untimely filed 48-hour notices); MUR 6171 (Cooney) (dismissing failure to file 48-hour notices); MUR 6102 (Oliver) (dismissing allegations that candidate failed to properly note whether the source of her loan to her committee was personal funds); MUR 5979 (Oberweis) (dismissing failure to properly report candidate's loan to Committee that had previously been correctly reported).


Camilla Jackson Jones
Attorney

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